

**MINUTES OF THE LOCAL AGENCY FORMATION COMMISSION
HEARING OF JANUARY 19, 2005**

REGULAR MEETING

9:00 A.M.

JANUARY 19, 2005

PRESENT:

COMMISSIONERS:	Richard P. Pearson, Acting Chairman	Josie Gonzales, Alternate
	Bob Colven	Paul J. Luellig Jr., Alternate
	Kimberly Cox	A.R. "Tony" Sedano, Alternate
	James V. Curatalo, Alternate	Diane Williams

STAFF: **Kathleen Rollings-McDonald, Executive Officer**
 Clark H. Alsop, Legal Counsel
 Samuel Martinez, LAFCO Analyst
 Debby Chamberlin, Clerk to the Commission

ABSENT:

COMMISSIONERS: **Paul Biane, Vice Chairman**
 Vacant, Regular City Member
 Vacant, Regular Board Member

REGULAR SESSION - CALL TO ORDER - 9:00 A.M.

Executive Officer Kathleen Rollings-McDonald reports that the Commission does not have a Chairman today because Vice Chairman Biane is attending the Presidential Inauguration. She says that in order to conduct business, the Commission must first elect a temporary Chairman.

Ms. McDonald opens the nominations for Acting Chairman. Commissioner Colven nominates Commissioner Pearson, seconded by Commissioner Cox. Ms. McDonald states that with no objections, Commissioner Pearson is unanimously elected Acting Chairman.

Chairman Pearson calls the regular session of the Local Agency Formation Commission to order. Commissioner Colven leads the flag salute.

Chairman Pearson requests those present who are involved with any of the changes of organization to be considered today by the Commission and have made a contribution of more than \$250 within the past twelve months to any member of the Commission to come forward and state for the record their name, the member to whom the contribution has been made, and the matter of consideration with which they are involved. There are none.

SWEARING IN OF ALTERNATE CITY MEMBER OF THE COMMISSION

Executive Officer Kathleen Rollings-McDonald announces that Supervisor Gonzales, the newly-appointed Alternate Board of Supervisors Member, will be sworn in when she arrives. She says that Mark Nuaimi, who was elected as the Regular City Member, and Dennis Hansberger, who was appointed as the Regular Board of Supervisors Member, are both attending the Inauguration and will be sworn in on February 16, 2005. She says that Mr. Luellig will be sworn in as the Alternate City Member and will be the voting member today.

Clerk to the Commission Debby Chamberlin administers the Oath of Allegiance to Alternate City Member Paul J. Luellig Jr., who is filling the unexpired term of Neal Hertzmann, ending in May 2006.

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APPROVAL OF MINUTES FOR REGULAR MEETING OF NOVEMBER 17, 2004

Chairman Pearson calls for any corrections, additions, or deletions to the minutes. There are none. Commissioner Colven moves approval of the minutes as presented, seconded by Commissioner Williams. Chairman Pearson calls for a voice vote on the motion and it is as follows: Ayes: Colven, Cox, Luellig, Pearson, Williams. Noes: None. Abstain: None. Absent: Biane.

CONSENT ITEMS

LAFCO considers the items listed under its consent calendar. Chairman Pearson states that the consent calendar consists of: (1) approval of the Executive Officer's expense report; (2) approval of payments as reconciled for the months of November and December, 2004 and noting cash receipts; and (3) approval of one service contract. A Travel Claim and Visa Justifications for the Executive Officer's expense report, and staff reports for the reconciled payments and the service contract, have been prepared and a copy of each is on file in the LAFCO office and is made a part of the record by its reference herein. Consent calendar items have been advertised as required by law through publication in The Sun, a newspaper of general circulation. In addition, the service contract was advertised in the Redlands Daily Facts, a newspaper of general circulation in the area.

The service contract proposal is summarized as:

LAFCO SC#244 - City of Redlands OSC No. 04-08 for Water Service (APN 0298-013-24)

Executive Officer Kathleen Rollings-McDonald states that the Commission has been presented this morning with a Travel Claim that was not part of the agenda packet and she requests that it be included as part of the expense report. She also requests that the Commission authorize Vice Chairman Biane to sign the expense documents at a later date since there is no signature authorization on file with the Auditor for Commissioner Pearson.

The staff recommendation is that the Commission approve the Executive Officer's expense report and payments as reconciled and authorize Vice Chairman Biane to sign them at a later date, and take the following actions for the service contract: (1) determine that SC#244 is statutorily exempt from environmental review and direct the Clerk to file a Notice of Exemption; (2) approve SC#244 authorizing the City of Redlands to extend water service outside its boundaries to APN 0298-013-24; and (3) adopt LAFCO Resolution No. 2857 outlining the Commission's findings, determinations and approval of the contract.

Chairman Pearson asks whether there is anyone present wishing to discuss any of the consent calendar items. There is no one.

Commissioner Williams moves approval of the consent calendar, seconded by Commissioner Colven. Chairman Pearson calls for any objections to the motion. There being none, the voice vote is as follows: Ayes: Colven, Cox, Luellig, Pearson, Williams. Noes: None. Abstain: None. Absent: Biane.

CONTINUED ITEMS

CONTINUED FROM NOVEMBER 17, 2004 -- CONSIDERATION OF: (1) CEQA STATUTORY EXEMPTION FOR LAFCO 2945; AND (2) LAFCO 2945 - SERVICE REVIEW AND SPHERE OF INFLUENCE UPDATE FOR COUNTY SERVICE AREA SL-1 - CONTINUE TO APRIL 20, 2005

LAFCO conducts a continued public hearing to consider a service review and sphere of influence update for County Service Area SL-1 (CSA SL-1). This hearing was continued from November 17, 2004, and

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notice of the original hearing was advertised as required by law through publication in The Sun, a newspaper of general circulation in the area. Individual notice of this hearing was provided to affected and interested agencies, County departments and those individuals requesting mailed notice.

Executive Officer Kathleen Rollings-McDonald presents the staff report, a copy of which is on file in the LAFCO office and is made a part of the record by reference herein. Ms. McDonald reports that as requested at that hearing, Southern California Edison has provided information to staff regarding the location of streetlights inside and outside the boundaries of this agency. She says LAFCO staff, as well as staffs of the Special Districts Department and the Economic Development and Public Services Group, are reviewing this information. She says the staff recommendation is that this hearing be continued to the April 20, 2005 hearing, due to concerns that have arisen in reviewing this information. She notes that a letter from Norman Kanold, Assistant County Administrator, supporting this continuance is attached to the staff report.

Chairman Pearson asks if there is anyone wishing to speak on this item. There is no one.

Commissioner Colven moves approval of staff recommendation, seconded by Commissioner Luellig. Chairman Pearson calls for any objections to the motion. There being none, the voice vote is as follows: Ayes: Colven, Cox, Luellig, Pearson, Williams. Noes: None. Abstain: None. Absent: Biane.

CONTINUED AND DISCUSSION ITEMS

CONTINUED FROM NOVEMBER 17, 2004 -- CONSIDERATION OF REQUEST FOR OVERRIDE OF COMMISSION POLICY RELATED TO DEFERRAL OF PROCESSING APPLICATIONS FOR PROJECTS PENDING SETTLEMENT OF LITIGATION FOR LAFCO 2970A - REORGANIZATION INCLUDING ANNEXATIONS TO CITY OF RANCHO CUCAMONGA AND WEST VALLEY MOSQUITO AND VECTOR CONTROL DISTRICT (ETIWANDA CREEK--DRC2003-01164), (RICHLAND PINEHURST--DRC2002-00865) AND (TRACY DEVELOPMENT--DRC2003-01051) - CONTINUED TO FEBRUARY 16, 2005

AND

CONSIDERATION OF: (1) REVIEW OF MITIGATED NEGATIVE DECLARATION PREPARED BY CITY OF RANCHO CUCAMONGA FOR ANNEXATION DRC2003-01164, GENERAL PLAN AMENDMENT DRC2003-01162, AND ETIWANDA NORTH SPECIFIC PLAN AMENDMENT DRC2003-01163, AS CEQA RESPONSIBLE AGENCY FOR LAFCO 2970A (ETIWANDA CREEK--DRC2003-01164); (2) FINAL ENVIRONMENTAL IMPACT REPORTS ADOPTED BY CITY OF RANCHO CUCAMONGA FOR (A) ANNEXATION DRC2002-00865, TENTATIVE TRACT MAP SUBTT16072 AND DEVELOPMENT AGREEMENT DRC2002-00156--RICHLAND PINEHURST INC. (STATE CLEARINGHOUSE NO. 2002091053); AND (B) ANNEXATION DRC2003-01051, GENERAL PLAN AMENDMENT DRC2003-00410, ETIWANDA NORTH SPECIFIC PLAN AMENDMENT DRC2003-00409, TENTATIVE TRACT MAP SUBTT14749, AND DEVELOPMENT AGREEMENT DRC2003-00411--TRAIGH PACIFIC (STATE CLEARINGHOUSE NO. 2003081085), AS CEQA RESPONSIBLE AGENCY FOR LAFCO 2970A (RICHLAND PINEHURST AND TRACY DEVELOPMENT); (3) ADOPTION OF FINDINGS OF FACT AND STATEMENTS OF OVERRIDING CONSIDERATIONS (RICHLAND PINEHURST AND TRACY DEVELOPMENT); AND (4) LAFCO 2970A - REORGANIZATION INCLUDING ANNEXATIONS TO CITY OF RANCHO CUCAMONGA AND WEST VALLEY MOSQUITO AND VECTOR CONTROL DISTRICT (ETIWANDA CREEK--DRC2003-01164), (RICHLAND PINEHURST--DRC2002-00865), AND (TRACY DEVELOPMENT--DRC2003-01051) - CONTINUED TO FEBRUARY 16, 2005

Executive Officer Kathleen Rollings-McDonald states that Items 7 and 9 can be considered together. She says that Item 7 is the continued hearing from November 17, 2004, on the consideration of the override of the Commission's environmental litigation policy. Notice of the November 17 hearing was advertised as required by law through publication in The Sun and the Inland Valley Daily Bulletin, newspapers of general circulation in the area. Individual notice of this hearing was provided to affected and interested

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agencies, County departments and those individuals requesting mailed notice. Ms. McDonald states that Item 9 is the hearing on the consideration of LAFCO 2970A, the consolidated reorganization application for the City of Rancho Cucamonga. Notice of this hearing has been advertised as required by law through publication in The Sun and the Inland Valley Daily Bulletin, newspapers of general circulation in the area. Individual notice of this hearing was provided to affected and interested agencies, County departments, those individuals requesting mailed notice and landowners and registered voters pursuant to State law and Commission policy.

Ms. McDonald reports that at the November hearing, the Commission consolidated three City of Rancho Cucamonga applications into a single proposal. She shows the consolidated proposal area on the map on the overhead display. She says staff needs additional time to complete the review of possible conditional approvals related to the environmental litigation. She says staff recommendation is that these two items be continued to February 16, 2005.

Chairman Pearson asks if there are any questions or comments from Commissioners or anyone wishing to speak on these items. There are no questions or speakers.

Commissioner Colven moves approval of staff recommendation, seconded by Commissioner Cox. Chairman Pearson calls for any objections to the motion. There being none, the voice vote is as follows: Ayes: Colven, Cox, Luellig, Pearson, Williams. Noes: None. Abstain: None. Absent: Biane.

CONSIDERATION OF: (1) REVIEW OF NEGATIVE DECLARATION PREPARED BY COUNTY OF SAN BERNARDINO FOR TENTATIVE PARCEL MAP 15925 TO CREATE TWO PARCELS ON 3.10 ACRES AND CONDITIONAL USE PERMIT TO ESTABLISH 16 RESIDENTIAL UNITS ON 2.7 ACRES, AS CEQA RESPONSIBLE AGENCY FOR LAFCO SC#245; AND (2) LAFCO SC#245 - CITY OF REDLANDS OSC NO. 04-30 FOR WATER AND SEWER SERVICE (APN 0298-221-55) - APPROVE STAFF RECOMMENDATION

LAFCO conducts a public hearing to consider a request for approval of an out-of-agency service agreement submitted by the City of Redlands (hereinafter referred to as "the City") to extend water and sewer service outside its boundaries to the newly-created APN 0298-221-55, located north of Nice Avenue, generally east of Crafton Avenue and west of Ansley Lane, within the City's eastern sphere of influence which encompasses the community known as "Mentone". Notice of this hearing has been advertised as required by law through publication in The Sun and the Redlands Daily Facts, newspapers of general circulation in the area. Individual notice of this hearing was provided to affected and interested agencies, County departments and those individuals requesting mailed notice.

(Chairman Pearson notes that Commissioner Gonzales has arrived (at 9:09 a.m.)

LAFCO Analyst Samuel Martinez presents the staff report, a copy of which is on file in the LAFCO office and is made a part of the record by reference herein. Mr. Martinez states that Tentative Parcel Map 15925 created two lots on 3.10 acres. He says that Parcel 1, which is .40 acres, has an existing single-family residential unit already served water from the City and that Parcel 2, to which this agreement relates, is 2.70 acres and is planned for the development of 16 residential units. He reports that the County Land Use Services Department processed approval of the Tentative Parcel Map and that the Conditions of Approval require connection to the City's water and sewer system prior to issuance of building permits. He says that all financial obligations for the extension of services will be the responsibility of the property owner/developer who will be required to pay \$268,298. In addition, he says the property owner/developer must pay for the installation of a water main from Crafton Avenue, to the easterly boundary of the parcel, and fire hydrants.

Mr. Martinez says the County prepared an environmental assessment for the Tentative Parcel Map indicating the project would have no significant effects on the environment through its development under the County's Conditions of Approval. He says that LAFCO's Environmental Consultant Tom Dodson and Associates has reviewed the application and indicated that the County's Initial Study and Negative

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Declaration are adequate for the Commission's use as a CEQA responsible agency. Mr. Martinez says staff supports the City's request. He says the City's sewer facilities are adjacent to the property; that water is relatively close by; and that there are no other entities in the area to provide these services. He says the staff recommendation is listed on pages one and two of the staff report and includes that the Commission: (1) take the actions listed for environmental review; (2) approve SC#245 authorizing the City to extend water and sewer service outside its boundaries to APN 0298-221-55; and (3) adopt LAFCO Resolution No. 2858 setting forth the Commission's findings, determinations and approval of the agreement.

Chairman Pearson asks Mr. Dodson if this property is within the two-mile radius of the Redlands Airport. Mr. Dodson says it probably is because the Airport is located at the end of Wabash Avenue, west of this site. He says this type of use is permitted in that area. He says if the property owner had to go to the Airport Land Use Commission, it would be for a standard aviation easement.

Chairman Pearson opens the hearing and asks if there is anyone wishing to speak on this item. There is no one and he closes the hearing.

Commissioner Cox moves approval of staff recommendation, seconded by Commissioner Colven. Chairman Pearson calls for any objections to the motion. There being none, the voice vote is as follows: Ayes: Colven, Cox, Luellig, Pearson, Williams. Noes: None. Abstain: None. Absent: Biane.

SWEARING IN OF REGULAR BOARD OF SUPERVISORS MEMBER OF THE COMMISSION

Clerk to the Commission Debby Chamberlin administers the Oath of Allegiance to Alternate Board of Supervisors Member Josie Gonzales, who is filling the unexpired term of Dennis Hansberger ending in May 2005.

CONSIDERATION OF: (1) FINAL ENVIRONMENTAL IMPACT REPORT AND ADDENDUM TO FINAL ENVIRONMENTAL IMPACT REPORT (FOR FONTANA DEVELOPMENT CODE UPDATE) ADOPTED BY CITY OF FONTANA FOR FONTANA GENERAL PLAN UPDATE (STATE CLEARINGHOUSE NO. 2003031083), AS CEQA RESPONSIBLE AGENCY FOR LAFCO 2968; (2) ADOPTION OF FINDINGS OF FACT AND STATEMENT OF OVERRIDING CONSIDERATIONS; AND (3) LAFCO 2968 - REORGANIZATION TO INCLUDE CITY OF FONTANA ANNEXATION NO. 161 AND DISSOLUTION OF COUNTY SERVICE AREA 70, IMPROVEMENT ZONE P-9 - CONTINUED TO APRIL 20, 2005

LAFCO considers a continuance of LAFCO 2968 to the April 20, 2005 hearing. Notice of this consideration has been advertised as required by law through publication in The Sun, a newspaper of general circulation in the area. Individual notice of this consideration was provided to affected and interested agencies, County departments and those individuals requesting mailed notice.

Executive Officer Kathleen Rollings-McDonald presents the staff report, a copy of which is on file in the LAFCO office and is made a part of the record by reference herein. She reports that in August 2004, the City of Fontana submitted a proposal for annexation of approximately 92 acres along Foothill Boulevard. After the initial processing, she says LAFCO staff modified the proposal to include the dissolution of County Service Area 70 Improvement Zone P-9 (hereinafter referred to as "CSA 70 P-9"). This Improvement Zone was created in 1995 to provide streelighting and park and recreation services related to landscape maintenance of the entrance to Tract 15581 and a pocket park at the east end of the Chesebro Court cul-de-sac.

Ms. McDonald reports that a Certificate of Filing was issued in late October 2004, for this proposal identifying a hearing date of January 19, 2005. However, she says that in the interim, the ultimate disposition of CSA 70 P-9 and the park has been discussed and she says Special Legal Counsel Jeffrey Goldfarb and County Counsel Thomas Krahelski have reviewed the need for an official abandonment of the park by the County prior to its annexation to the City. She says the 25 property owners in this tract

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have been seeking removal of the park because it is a nuisance for the community and there are concerns about safety issues related to the park. Ms. McDonald reports that a means to remove the park use was initiated by the Board of Supervisors on January 4, 2005, and the process will not be completed until the March 9 Board of Supervisors hearing. She says staff recommendation is that the Commission continue this hearing to April 20, 2005, noting that representatives of the City of Fontana, the Special Districts Department, and the County agree with this continuance.

Commissioner Williams asks what will happen to the property. Ms. McDonald says that CSA 70 P-9 will be dissolved as part of the Commission's consideration; that the park will be transferred to the City; and that the City can allow for development of the parcel for residential use.

Commissioner Gonzales asks whether there is any indication that after annexation takes place, the site will remain for the purpose it is being used for, or whether it can be purchased and developed. Ms. McDonald responds that dissolution of CSA 70 P-9 and abandonment of the park use will allow it to be surplus and used for residential development.

Chairman Pearson asks if there is anyone wishing to speak on this item. There is no one.

Commissioner Cox moves approval of staff recommendation, seconded by Commissioner Colven. Chairman Pearson calls for any objections to the motion. There being none, the voice vote is as follows: Ayes: Colven, Cox, Gonzales, Luellig, Pearson, Williams. Noes: None. Abstain: None. Absent: Biane (Gonzales voting in his stead).

CONSIDERATION OF: (1) REVIEW OF MITIGATED NEGATIVE DECLARATION PREPARED BY CITY OF MONTCLAIR FOR CASE NO. 2004-4 -- ANNEXATION NO. 24, AS CEQA RESPONSIBLE AGENCY FOR LAFCO 2969; AND (2) LAFCO 2969 - REORGANIZATION TO INCLUDE CITY OF MONTCLAIR ANNEXATION NO. 24 AND DETACHMENT FROM MONTE VISTA FIRE PROTECTION DISTRICT - APPROVE STAFF RECOMMENDATION

LAFCO conducts a public hearing to consider a proposal initiated by City Council resolution of the City of Montclair (hereinafter referred to as "the City") to annex approximately 11.44+/- acres to the City, with concurrent detachment of the area from the Monte Vista Fire Protection District. The reorganization area is generally located north of Phillips Boulevard, west of Fremont Avenue, south of parcel boundaries and east of Monte Vista Avenue, within the City's southern sphere of influence. Notice of this hearing has been advertised as required by law through publication in The Sun and the Inland Valley Daily Bulletin, newspapers of general circulation in the area. Individual mailed notice was provided to affected and interested agencies, County departments, those individuals requesting mailed notice and landowners and registered voters pursuant to State law and Commission policy.

LAFCO Analyst Samuel Martinez presents the staff report, a copy of which is on file in the LAFCO office and is made a part of the record by reference herein. Mr. Martinez shows a map and slides of the area on the powerpoint presentation. As outlined in the staff report, he says the area has 11 existing single-family residential units on 10 parcels, and he discusses the surrounding land uses. He says the proposal was submitted to process a two-lot parcel map and the development of one single-family residence on APN 1014-011-08. He discusses the County's land use designation for the area, noting a slight error in the staff report. He says the R-1(11) designation is for approximately two acres, not 10 acres, and the R-1(20) designation is for approximately 9½ acres, not one acre.

Mr. Martinez says the City has submitted a Plan for Services which indicates it can maintain and/or improve the level and range of services now provided. He summarizes these services which are outlined in the staff report. He notes that existing residential structures will not be required to connect to City sewer facilities upon annexation, but he says a stand-by charge of \$2.35 per month will be assessed to those properties along Monte Vista Avenue, Fremont Avenue and Phillips Boulevard which are not connected but have direct access to City sewers. He says that two parcels on Butterfield Avenue are exempt from this charge. He says the only financial effect to landowners and residents of the area will be

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the \$2.35 per month standby charge and the 3.89% Utility Users Tax levied on all utility services. He says the City conducted an environmental assessment which has been reviewed by the Commission's Environmental Consultant Tom Dodson, who has indicated that the City's documents are adequate for the Commission's use as a responsible agency.

Mr. Martinez says staff supports this proposal because it is a reasonable and logical annexation. He says staff commends the City for working with the landowners and voters in the area to come up with the most logical, efficient boundary configuration, considering they started with just one parcel. He says the staff recommendation is listed on page one of the staff report and includes that the Commission: (1) certify that it has reviewed and considered the City's environmental assessment and Mitigated Negative Declaration; take the actions identified in the staff report; and direct the Clerk to file a Notice of Determination within five days; (2) approve LAFCO 2969; and (3) adopt LAFCO Resolution No. 2859 setting forth the Commission's findings, determinations and conditions of approval for this proposal.

Commissioner Sedano commends the City, stating it always does an outstanding job on each proposal presented to the Commission. He asks what the City plans to do with its remaining sphere.

Commissioner Cox asks whether the 3.89% Utility User Tax is a percentage of the assessed valuation or something else. Ms. McDonald responds that the 3.89% charge is applied against the different utilities, such as electricity, telephone, cable. Commissioner Cox asks why the two parcels on Butterfield Avenue are exempt from the \$2.35 per month sewer standby charge. Ms. McDonald explains that the existing sewer facilities do not go down the small cul-de-sac on Butterfield Avenue.

Chairman Pearson opens the hearing and calls on Steve Lustro, City Planner for the City of Montclair.

Mr. Lustro thanks Commissioner Sedano for his complimentary comments, stating the City tries to do a good job and is trying to square up the boundaries in its southern sphere. He says they try to work with residents and property owners who want to come into the City and says when they have new development, they try to take the area that is being developed and carve out a logical boundary. Commissioner Colven asks whether there are people who want to come into the City. Mr. Lustro says there are in some neighborhoods, but he discusses that the City Council does not want to force any neighborhoods into the City.

Chairman Pearson asks if there is anyone else wishing to speak on this item. There is no one and he closes the hearing.

Commissioner Colven moves approval of staff recommendation, seconded by Commissioner Gonzales. Chairman Pearson calls for any objections to the motion. There being none, the voice vote is as follows: Ayes: Colven, Cox, Gonzales, Luellig, Pearson, Williams. Noes: None. Abstain: None. Absent: Biane (Gonzales voting in his stead).

**REQUEST FOR WAIVER OR DEFERMENT OF FILING FEES SUBMITTED BY BLOOMINGTON
INCORPORATION COMMISSION FOR LAFCO 2981 - SPHERE OF INFLUENCE REVIEW
(REDUCTIONS) FOR THE CITIES OF FONTANA AND RIALTO - APPROVE
STAFF RECOMMENDATION WITH REQUIREMENT THAT FEES BE SUBMITTED WITHIN ONE YEAR**

LAFCO conducts a public hearing to consider a request for a waiver or deferral of filing fees submitted by Eric Davenport, Chairperson for the Bloomington Incorporation Commission (hereinafter referred to as "BIC"), for LAFCO 2981, a proposal for sphere of influence reductions for the Cities of Fontana and Rialto. Notice of this hearing has been provided as required by law through publication in The Sun, a newspaper of general circulation. Individual notice of this hearing was provided to affected and interested agencies, County departments and those individuals requesting mailed notice.

Executive Officer Kathleen Rollings-McDonald presents the staff report, a copy of which is on file in the LAFCO office and is made a part of the record by its reference herein. Ms. McDonald states that the fees

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that would apply to this proposal are outlined in the staff report and total \$17,700. She explains that each area of consideration is assessed a \$4,000 charge and she points out on the map on the overhead display three areas proposed to be removed from the sphere of the City of Fontana (hereinafter referred to as "Fontana") and one area to be removed from the sphere of the City of Rialto (hereinafter referred to as "Rialto"). She says there is a \$450 Registrar of Voters deposit, a \$750 environmental review deposit, and a \$500 deposit for newspaper advertising since staff assumed BIC would request a waiver of the individual notice requirements. She points out that the actual costs for the Registrar of Voters, environmental review and legal advertising services are applied against these deposits and says if the charges are less than the deposits, those amounts are refunded; and if the charges are more than the deposits, the proponents are billed for those additional costs. Ms. McDonald discusses that BIC has submitted this sphere reduction application in response to the Commission's first policy directive for incorporations that proposals involving land within an existing city sphere will not be accepted.

Ms. McDonald says staff cannot support a waiver of filing fees because the applicants will be the beneficiaries of this change and a waiver would require the entities that are mandated to support LAFCO to pay this financial obligation. She says BIC has requested that if a waiver is not possible, the Commission defer the fees until after incorporation. She says that request assumes that the sphere reductions will be approved; that the community of Bloomington will support initiation of the proposal by a petition of 25% of the voters in the area; that the community can fund the preparation of a Comprehensive Fiscal Analysis, estimated to be \$20,000 to \$30,000; that the Commission will approve the incorporation; and that the voters of Bloomington will support incorporation. She says staff cannot support a deferral because failure at any point in the process would put the burden for paying these fees on the entities funding LAFCO. Ms. McDonald says staff will support a reduction in the overall fee, charging a single \$4,000 fee for each City's sphere reduction along with the required deposits, reducing the fee obligation to \$9,700. She points out that in the last two years, the spheres of both Cities were reviewed as part of the municipal service review/sphere update process. She says notification was provided to all overlaying agencies and interested members of the community and says no concern was expressed by the Bloomington community.

Ms. McDonald states that the application is not considered complete until the filing fees are paid and says the application will not be processed until the fees are submitted. She notes that in its application, BIC has indicated that it will also request formation of a Community Services District (CSD) as a means to protect the boundaries while the incorporation proposal is being processed. She explains that formation of a CSD requires an election, preparation of a feasibility report, an outline of services to be assumed by the agency, and review and approval of LAFCO, with required filing fees of about \$7,000. Ms. McDonald says the staff recommendation is listed on page one of the staff report and includes that the Commission: (1) deny the request for a waiver or deferment of filing fees for LAFCO 2981; and (2) authorize a reduction in fees, requiring a total deposit of \$9,700.

Commissioner Colven asks whether the Commission would be getting itself in a difficult position and setting precedent if it approved BIC's request, recognizing that many assumptions would need to transpire. Ms. McDonald responds that the Commission has never deferred fees for the actual processing of an application. Commissioner Colven comments that BIC seems to be trying to do this without full financial backing and he asks if there is an up swell in the community for incorporation. Ms. McDonald says staff has not heard a great outcry from the community following publication of this consideration. Commissioner Sedano asks whether BIC intends to submit both applications simultaneously, or one or the other. Ms. McDonald says the BIC representatives can answer that, but she notes that the application indicated a desire to form a CSD as an interim step in the incorporation process. Commissioner Sedano points out the fees for doing both would be almost \$17,000.

Commissioner Williams asks what will happen if the area is removed from the spheres of Fontana and Rialto, and then the people reject incorporation. Ms. McDonald explains that if that happens, the Commission would need to put the area back into those spheres through a separate application, unless it leaves the area without a sphere designation until the next round of service review/sphere updates. Commissioner Williams asks if an area without a sphere would be limited for receiving services. Ms. McDonald reminds the Commission about problems related to the "Donut Hole". She says that the

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ability of the Cities of Fontana and Rialto to extend their services outside their boundaries to this area will be removed because under the criteria of Government Code Section 56133, an area must be within the sphere of the contracting agency.

Commissioner Gonzales asks if removing this area from the City spheres would determine the economic direction of any monies presently coming into the County. Ms. McDonald responds it would not, explaining that the sphere does not give an agency revenue ability and that the property tax transfer process does not take place until an area is annexed. She points out that Fontana and Rialto have included this area in their general plans and master plans for facilities. Commissioner Gonzales comments that to remove the area from these spheres would also remove the partnering that is taking place presently to provide services that assist with the quality of life for the residents. Ms. McDonalds says that is correct, as far as service delivery. She says she understands that the only service provided by Fontana and Rialto outside their boundaries in this area is sewer service. She says there is no County agency authorized to provide that service, nor does the County have a contract to use any of the facilities for wastewater treatment.

Chairman Pearson opens the public hearing and calls on Eric Davenport, Chairman of BIC, to speak.

Mr. Davenport says it is not true that no one contested when the community of Bloomington was placed in the spheres of Fontana and Rialto, noting that in Section BL2.0801 of an intergovernmental coordination document from 1980 it is stated that the residents of Bloomington have continually stated that the Cities of Fontana and Rialto are encroaching on the community by annexation. Mr. Davenport says he is from one of the oldest families in the Bloomington area and says they have never received any notification about annexations. He reports that probably about 85% of the residents in Bloomington are for these sphere removals, stating that they are not anti-improvement and want to grow, but they want to keep their community rural. He says if the County would stick to the Community Plan of one-half acre or larger parcels, sewer would not be a problem since parcels that size do not have to be hooked to a sewer system. He adds that they have a plan to work with Rialto on the sewer problem for those facilities that need sewer service.

Mr. Davenport thanks Ms. McDonald for suggesting that the fees be lowered, which is he says is helpful; but he says they would like to pay just the actual costs, if possible. He explains that formation of a CSD is only a maneuver they will take if it will protect the boundaries of Bloomington and stop the encroachment of Fontana and Rialto. He says Rialto and Fontana do "drive by" annexations and do not let the residents know what they are doing, and the residents are fed up with that. He reports they have initiated a feasibility study, are negotiating fees with some service agencies needed to run the city, and have initiated a budget that shows they are financially able to run a city. Mr. Davenport says the removal of these spheres is the first step toward Bloomington becoming a city and he says once this is brought before the people, it will be passed by a majority, because the people are for cityhood if it will protect their way of life. He says they are working with the County on a Community Plan to allow for development, such as commercial and industrial zones and higher density areas and larger parcels because Bloomington is more or less an agricultural community and most of the residents have horses, cows and sheep. He says when the lower density housing tract neighborhoods come in, the people are not used to having animals around and have problems with the odors. He says the people want control of their destiny and want to direct the manner in which their community develops.

In response to inquiry of Commissioner Sedano, Ms. McDonald says that Bloomington has not had a sphere of influence but explains that the area of the Bloomington community was defined by its exclusion from any sphere. She discusses a moratorium years ago which excluded the community from any sphere to allow for research on governance for the future of Bloomington. She says this was reviewed by the community over a five-year period and it was determined that incorporation was not viable. She says that following that review, spheres were assigned overlaying the community of Bloomington through cooperation and review by a Blue Ribbon Committee appointed by the Bloomington Municipal Advisory Council (MAC), and representatives of LAFCO and the Cities of Fontana and Rialto.

Mr. Davenport says that he has been involved in other incorporation attempts as a long-time resident,

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and says that at one time in the early 1970's, they decided not to become a city because they really did not understand the process. But he says that there was no fear then of being annexed by Fontana or Rialto. He discusses that the MAC does not represent the majority of people in Bloomington and says they need to get a more diverse board.

Commissioner Cox questions whether this group would be precluded from incorporating if they are unsuccessful with the sphere removal. Ms. McDonald responds they would be, unless the Commission overrides its first incorporation policy that an incorporation proposal will not be accepted for filing if the area is overlaid by an existing sphere. Commissioner Sedano asks how the population of the City of Highland when it incorporated compares to the population of the Bloomington community today. Mr. Davenport says they estimate the population at 20,000 plus, from the last Census. Ms. McDonald says Highland's population was not much larger. Commissioner Sedano says the point he wants to make is that the people in the City of Highland paid their fees up front. Commissioner Colven questions whether the creation of a CSD would forestall annexation efforts. Ms. McDonald says there is no automatic detachment of a CSD in a city annexation, but she says formation of a CSD will not eliminate the possibility of annexation.

Chairman Pearson says he has a great deal of empathy for this group because he was involved in an incorporation in his community twenty years ago. He says it was quite a challenge then and the rules have tightened up considerably. He says staff has outlined the process to be taken, and the first step is the removal of this area from the City spheres, for which there is a cost. He says staff has brought out issues that could occur if these spheres are removed and then people in the area require services. He says staff has made a fairly commendable offer in reducing the fees and that other entities cannot be expected to pay for this process. He says BIC must back up this commendable effort by making a commitment to come up with funding for the costs.

Mr. Davenport says they appreciate that Ms. McDonald has lowered the fees, but says they are trying to get the fees down to the actual costs. He says they are in the process of raising funds and it appears that they will be able to pay the fees, but they want to be sure they are not excessive.

Chairman Pearson discusses the notification process, stating that the Commission goes beyond the requirements of law in notifying people of proposals. But he explains that LAFCO is required to use the most current assessment rolls available, which sometimes are not updated for up to a year after property ownership changes. Mr. Davenport comments that Supervisor Gonzales had no problem notifying the people in Bloomington about a meeting on redevelopment, but he says when it comes to annexations, the citizens are not properly notified. Chairman Pearson says the issue today is that, in order for BIC's process to move forward, the required fees must be submitted. Mr. Davenport asks if there is a time limit in which to submit the fees. Ms. McDonald says there is no mandatory time limit, but she says their application will not be processed until the fees are submitted.

Commissioner Williams says that Mr. Davenport has mentioned several times that they only want to pay the actual costs. She says she wants it clear on the record that the staff report outlines that many of the fees are deposits and if the charges are less than the deposits, those amounts will be refunded, but if the charges exceed the deposits, BIC will be expected to pay that amount. Mr. Davenport asks what the environmental review deposit is and what is being reviewed. Ms. McDonald responds that an environmental assessment for the sphere amendment will be prepared and says that deposit goes toward the costs of the Commission's Environmental Consultant Tom Dodson and Associates to do that review.

Commissioner Gonzales discusses that regarding mailings, people choose which pieces of mail they respond to and which they do not respond to, noting that the response will be overwhelming if a notice is sent out indicating there will be an increase in property taxes or water and sewer fees. She says she will differ with Mr. Davenport's statement that 85% of the residency is "on board" for BIC's position because she says that has not been her experience in campaigning in the community for over a year. She says there is not a clear decision on this issue in the community. She says that is why she has to take a standoff perspective to watch and see what the determining factors are in the future of this area. She points out that there are only a handful of Bloomington people in the room today and says the room

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should be filled if there were an 85% or even a 50% support base. She says her phone should be ringing off the hook and says there have been opportunities at the MAC meetings for people to come to her and say this is what they want. But she says that has not taken place. She discusses that what BIC wants to do is commendable and admirable but she says nothing in life is free and, if the people want independence, she will be there to champion them, but they need to pay their own way. She says development is taking place at a rapid rate; that infill projects and new residents are coming in and are beginning to be vocal; and that business is taking a foothold there. She says the I-10 Corridor is a great customer base that needs to be explored and that those are approaches she wants to take to help the community become independent and incorporated.

Mr. Davenport points out that the low turnout today is because the hearing is at 9:00 a.m. and people are at work. Regarding Commissioner Gonzales' comments that people have not talked to her about this at MAC meetings, Mr. Davenport says BIC kept quiet about this until they were sure they could prove there was enough money to run a city. He says now that they can do that, they are starting an advertising campaign. He points out that the City of Calimesa has a budget of only \$3.2 million, but it is successful. He says BIC has incorporated and is a non-profit organization and can collect money from citizens who can use their donations as a tax write-off. He says the only reason they are here today is to get the fees lowered, which he says has been accomplished through the reduction from \$17,700 down to \$9,700. He says they will move forward and see that the fees are paid.

Commissioner Gonzales says she would like to see a timeline for payment of the fees because costs incurred change and they never decrease but always increase. She says she also would like a statement of what the amount of the balance would be if incorporation is successful. She says that, as discussed by Commissioner Williams, these are deposits and she does not want anyone to come back and say that was the stipulated amount and they do not have to pay anymore. Ms. McDonald explains that this fee reduction applies only to LAFCO 2981, the sphere proposal submitted by BIC. She says it has no relationship to a future incorporation proposal and its related fees. She says the Commission can direct that the fees be paid within one year or the proposal will be considered terminated.

Virginia Geil, a resident of Bloomington for 15 years, says she is a member of the MAC and disagrees with Mr. Davenport. She says the MAC is a voice from the community to Supervisor Gonzales, who listens to them. She says the community will pay the required fee because they are not poor or dishonest and respect everything that they need to do. She says the community is very caring and discusses how the people worked together to save the Bloomington Garage. She says Bloomington needs to stay rural so it can have a tie to its history. She says she does not know why they need a sphere, noting that she does not know what Fontana or Rialto ever gave the community. She says the Commission will receive whatever is required for this proposal.

Chairman Pearson says Ms. Geil's points are very good and that she should take them back to the community to help them understand what makes Bloomington special and why BIC is undertaking this process. He asks if there is anyone else wishing to speak on this item. There is no one and he closes the hearing.

Commissioner Gonzales reiterates that she wants an expiration date for when the fees must be submitted and says she also wants it to be very clear to BIC that the remaining balance due from the deposits that will remain on the books is their obligation. She asks if there is any type of financial plan that must be submitted to insure economic viability once the Commission starts down that road. Ms. McDonald says that two separate applications are being consolidated into one discussion. She says the community group is putting together a financial feasibility study to take with it as it circulates the incorporation petition to show that the group feels there are sufficient revenues to support the service levels. She explains it is the Commission's responsibility under State law to prepare a Comprehensive Fiscal Analysis as a part of the incorporation application that will come subsequent to this sphere proposal and says the community is required to fund preparation of that document.

Commissioner Gonzales asks if there is an economic plan that needs to be submitted to cover any difference in service level if this area is eliminated from the Cities' spheres. Ms. McDonald says the

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sphere does not provide any level of service to that area from the sphere area; that the sphere is only a planning boundary. She explains that there are some specific contracts that the Cities have for sewer service outside their boundaries which are contractual relationships and remain unaffected. She says if there is no sphere assignment, the ability for any other contracts for the extension of sewer in the future will be eliminated. Commissioner Gonzales asks how this area will be able to provide for itself if the Cities were to give termination dates for those contracts. Legal Counsel Clark Alsop responds that if the Commission decides to remove some of the sphere of the two Cities, that will not have any effect on the current service provision or on any existing contracts, but that it will have an effect on future contracts.

Commissioner Luellig comments that he has listened to and appreciates BIC's concern about the loss of an urban lifestyle. However, he says if Bloomington becomes a city, State laws mandate high density and the city will not be given a choice. He says the fight in California is density versus urban sprawl.

Commissioner Sedano points to the Fontana map on the overhead display and says that removal of these areas from Fontana's sphere will make it look like Highland and San Bernardino, with "hot spots". He says that right now the lines are pretty straight and he cannot agree with the removal of those areas from Fontana's sphere. Ms. McDonald says that issue will be considered another day, once the fees are received and the application is processed.

Commissioner Curatalo says the staff recommendation is thoughtful in that it guards the policies and past practices of the Commission and guards against setting precedents that may be troubling in the future. He says he believes the reduction in filing fees recommended by staff is very generous and hopes that the Commission will consider approving staff recommendation.

Chairman Pearson says the staff recommendation includes two actions with an amendment by Commissioner Gonzales to include that the fees be required to be submitted within a certain time. Ms. McDonald notes that staff has recommended a one-year timeline for the payment of fees. In response to inquiry of Commissioner Curatalo, Ms. McDonald says if there is no timeline for payment of the fees, at a certain point the Commission would need to look at whether the information that had been submitted as part of the application was still viable. She notes that if a new application is required, the fees may have changed since the filing of the original application.

Commissioner Cox moves approval of staff recommendation, with the amendment that the filing fees are to be submitted within one year of this action, seconded by Commissioner Colven. Chairman Pearson calls for any objections to the motion. There being none, the voice vote is as follows: Ayes: Colven, Cox, Gonzales, Luellig, Pearson, Williams. Noes: None. Abstain: None. Absent: Biane (Gonzales voting in his stead).

(It is noted that Commissioner Curatalo leaves the hearing at 10:53 a.m.)

QUARTERLY FINANCIAL REPORT FOR PERIOD OCTOBER 1, 2004 THROUGH DECEMBER 31, 2004

LAFCO considers its second quarter financial report for the period October 1 through December 31, 2004. Notice of this item has been advertised as required by law through publication in The Sun, a newspaper of general circulation.

Executive Officer Kathleen Rollings-McDonald presents the staff report, a copy of which is on file in the LAFCO office and is made a part of the record by its reference herein. Ms. McDonald says the Commission has been presented with a spreadsheet that outlines the expenditures and revenues for the period ending December 31, 2004. She reports that the mandatory contributions from the County, the 24 cities and 52 of the 53 independent special districts have been received. She says that Parker Dam Recreation and Park District is no longer viable--it has no Board of Directors or General Manager and has not been active for over a year and a half. She says information will be presented in the next couple of months to the Commission regarding the future of this District. She reports that expenditures are on

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target, with the exception of those that are sensitive to activity levels. She discusses that activity levels have dramatically increased over the last two years, as shown on the chart attached to the staff report and on the overhead display. She says staff is requesting that the Commission consider establishing a student intern position to assist in compiling information on the North County service reviews. She says she has consulted with the Commission's Human Resources Consultant Mary Alcock and they believe that this will assist staff in gathering the information needed for reviewing the applications so there will be no backlog. Ms. McDonald says the staff recommendation is listed on page one of the staff report and includes that the Commission: (1) acknowledge increased receipts by adjusting various revenue accounts; (2) increase authorized appropriations for various accounts; and (3) authorize the Executive Officer to work with Ms. Alcock to develop a position outline and recruitment for a Student Intern and authorize additional contract payments to Ms. Alcock, not to exceed \$5,000.

Commissioner Sedano asks Legal Counsel Clark Alsop what he thinks about the examples of the duties and responsibilities of the Intern position. Counsel Alsop says he will defer to Ms. Alcock, since she is more directly involved in putting together job descriptions. Ms. McDonald points out that the structure was taken from the County's Student Intern position. Commissioner Sedano asks whether Ms. Alcock has reviewed this description. Ms. Alcock says she has not, but says she has talked with Ms. McDonald regarding it several times and she is sure it is well within what they discussed.

Chairman Pearson calls for further discussion. There is none.

Commissioner Colven moves approval of staff recommendation, seconded by Commissioner Gonzales. Chairman Pearson calls for any objections to the motion. There being none, the voice vote is as follows: Ayes: Colven, Cox, Gonzales, Luellig, Pearson, Williams. Noes: None. Abstain: None. Absent: Biane (Gonzales voting in his stead).

PENDING LEGISLATION

Executive Officer Kathleen Rollings-McDonald presents the Legislative Report, a copy of which is on file in the LAFCO office and is made a part of the record by reference herein. Ms. McDonald says this report highlights those bills that took effect on January 1, 2005. As outlined in the staff report, she summarizes AB 518, AB 2067, AB 3077, SB 1266 and SB 487, copies of which are attached to the staff report. She says the new Legislative Session began on December 6, 2004, and that CALAFCO is sponsoring some proposed revisions to Government Code Section 56133. She notes she participated on a Subcommittee of the Legislative Committee that worked on possible changes to this section.

Ms. McDonald says no Commission action is required today. She asks that if anyone wants a position on the proposed amendment to Section 56133 presented to the Executive Board when it considers the amendment, they contact her.

EXECUTIVE OFFICER'S ORAL REPORT

Ms. McDonald reports that items on the February 16 agenda include an out-of-agency service contract for the City of Chino, the consolidation of the Inland Empire West and East Valley Resource Conservation Districts, possibly the formation of County Service Area 120 and a discussion of island areas. She reports that the March 16 agenda includes the service review for the San Bernardino Valley Water Conservation District and a City of Fontana annexation. She says the April 20 agenda will include the preliminary budget discussion, continued items related to the service review for CSA SL-1 and the City of Fontana reorganization which includes dissolution of County Service Area 70, Improvement Zone P-9, the dissolution of County Service Area 110, possibly the dissolution of Monte Vista Fire Protection District, and annexations to the Cities of Highland and Montclair.

Ms. McDonald reports that on Monday night she gave a presentation to the Association of Special Districts on consolidations. She reports that she has been approached to participate with the Orange and

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Riverside LAFCOs on a Request for Proposal (RFP) for the auditing services of an outside auditor and says Best Best & Krieger is reviewing that RFP. She says this Commission has been using the County Auditor/Controller, but says there is a dispute over COWCAP fees charged for the audit last year and that it is two times what was charged for the actual preparation of the document. She says she has indicated support for using an outside auditor, which will be presented as part of the budget review. She notes that the Commissioners have been presented today with the updated Cortese-Knox-Hertzberg Local Government Reorganization Act of 2000, as well as the California Special Districts Association and the C&L Newsletters.

COMMISSIONER COMMENTS

Commissioner Sedano says that Ms. McDonald gave an excellent presentation at the Association of Special Districts dinner on Monday night. He says Paul Biane's presentation about not drinking and driving that appeared on television during Christmas time was superb. He wishes Legal Counsel Clark Alsop a happy birthday.

Commissioner Gonzales thanks the Commission for a kind, warm welcome. She also thanks the Commission for the time and consideration that was given earlier to Item 12. She says that is an extremely sensitive situation and she believes there will be quite a few approaches to the same front door.

Commissioner Luellig also thanks the Commission for the welcome he received.

Commissioner Cox welcomes the new Commissioners and says it is a pleasure not to be the new kid on the block.

COMMENTS FROM THE PUBLIC

Chairman Pearson calls for comments from the public. There are none.

CLOSED SESSION

At 11:12 a.m., Legal Counsel Clark Alsop announces that the Commission is adjourning to Closed Session in the LAFCO Staff Office Conference Room to discuss a Personnel issue pursuant to Government Code Section 54957, the employee evaluation of the Executive Officer. He says he does not know whether there will be a reportable action.

At 11:28 a.m., Chairman Pearson reconvenes the meeting of the Local Agency Formation Commission in the Hearing Chambers.

Counsel Alsop announces that the Commission was in Closed Session to consider an evaluation of the Executive Officer and is now in Open Session to take action on that evaluation.

Commissioner Colven moves, seconded by Commissioner Cox, to approve a salary increase for Executive Officer Kathleen Rollings-McDonald to \$120,000 per year, and to consider retroactivity at the behest of the Commission. Chairman Pearson asks if there is any discussion on the motion. There being none, he calls for a voice vote and it is as follows: Ayes: Colven, Cox, Gonzales, Luellig, Pearson, Williams. Noes: None. Abstain: None. Absent: Biane (Gonzales voting in his stead).

Commissioner Luellig states that it has not been established whether the salary increase is retroactive. He says he thinks it is appropriate that a decision be made whether the increase is effective as of today or whether it is retroactive, which was one of the recommendations.

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Counsel Alsop says that is a call for the Commission. Commissioner Sedano says the increase should be retroactive to July 1, 2004, and says he thinks the Commission's Executive Officer has earned every penny of that.

Commissioner Colven moves, seconded by Commissioner Williams, that the salary increase to \$120,000 be retroactive to July 1, 2004. Commissioner Williams asks whether the budget will cover this.

Ms. McDonald says the Commission has a reserve account in excess of \$40,000. Chairman Pearson calls for a voice vote on the motion and it is as follows: Ayes: Colven, Cox, Gonzales, Luellig, Pearson, Williams. Noes: None. Abstain: None. Absent: Biane (Gonzales voting in his stead).

Counsel Alsop states that the Commission should also authorize a meeting among Chairman Pearson, the Commission's Human Resources Consultant Mary Alcock, and Ms. McDonald to discuss the evaluation.

Commissioner Williams moves, seconded by Commissioner Colven, that the discussion of the evaluation be authorized. Chairman Pearson calls for a voice vote on the motion and it is as follows: Ayes: Colven, Cox, Gonzales, Luellig, Pearson, Williams. Noes: None. Abstain: None. Absent: Biane (Gonzales voting in his stead).

Ms. McDonald thanks the Commission for the salary increase.

**THERE BEING NO FURTHER BUSINESS TO COME BEFORE THE COMMISSION, THE HEARING IS
ADJOURNED AT 11:30 A.M. TO THE HILTON HOTEL FOR A LUNCHEON HONORING FORMER
COMMISSIONER JIM BAGLEY.**

ATTEST:

DEBBY CHAMBERLIN
Clerk to the Commission

LOCAL AGENCY FORMATION COMMISSION

PAUL BIANE, Vice Chairman